In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 744

GEORGE A. WALKER

v.

THE UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

We respectfully invite the attention of the Court to the following facts which show that the petition was filed out of time:

On April 14, 1967, the Court of Claims granted the government's motion for summary judgment in this case and ordered the dismissal of the action (Pet. App. A–1—A–2). A petition for rehearing was denied on July 20, 1967 (Pet. App. A–3). The period for filing a petition for a writ of certiorari expired on Wednesday, October 18, 1967. The petition was not filed until October 19, 1967, 91 days after the Court of Claims' denial of rehearing.

Section 2101(c) of Title 28 provides that "any writ of certiorari intended to bring any judgment or de-

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cree in a civil action * * * before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree." Since these limits are jurisdictional, the petition should be dismissed as untimely.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

NOVEMBER 1967.

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